

House File 2399 - Reprinted

HOUSE FILE 2399
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 2100)

(As Amended and Passed by the House March 2, 2010)

A BILL FOR

1 An Act requiring certain rate-regulated public utilities to
2 undertake analyses of and preparation for the possible
3 construction of low carbon emitting nuclear generating
4 facilities in this state, permitting all rate-regulated
5 public utilities to make significant alterations to an
6 existing generating facility, and including effective date
7 provisions.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.6, Code Supplement 2009, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 22. *a.* It is the intent of the general
4 assembly to require certain rate-regulated public utilities
5 to undertake analyses of and preparations for the possible
6 construction of nuclear generating facilities in this state
7 that would be beneficial in a carbon-constrained environment.
8 *b.* A rate-regulated electric utility that was subject to
9 a revenue sharing settlement agreement with regard to its
10 electric base rates as of January 1, 2010, shall recover,
11 through a rider and pursuant to a tariff filing made on or
12 before December 31, 2013, the reasonable and prudent costs of
13 its analyses of and preparations for the possible construction
14 of facilities of the type referenced in paragraph "a". Cost
15 recovery shall be accomplished by instituting a revenue
16 increase applied in the same percentage amount to each customer
17 class and not designed to recover, on an annual basis, more
18 than five-tenths percent of the electric utility's calendar
19 year 2009 revenues attributable to billed base rates in this
20 state. At the conclusion of the cost recovery period, which
21 shall extend no more than thirty-six months in total, the board
22 shall conduct a contested case proceeding pursuant to chapter
23 17A to evaluate the reasonableness and prudence of the cost
24 recovery. The utility shall file such information with the
25 board as the board deems appropriate, including the filing
26 of an annual report identifying and explaining expenditures
27 identified in the rider as items for cost recovery, and
28 any other information required by the board. If the board
29 determines that the utility has imprudently incurred costs, or
30 has incurred costs that are less than the amount recovered, the
31 board shall order the utility to modify the rider to adjust the
32 amount recoverable.

33 *c.* Costs that may be recovered through the rider described
34 in paragraph "b" shall be consistent with the United States
35 nuclear regulatory guide, section 4.7, general site suitability

1 criteria for nuclear power stations, revision two, April 1998,
2 including costs related to the study and use of sites for
3 nuclear generation.

4 Sec. 2. Section 476.53, Code 2009, is amended to read as
5 follows:

6 **476.53 Electric generating and transmission facilities.**

7 1. It is the intent of the general assembly to attract
8 the development of electric power generating and transmission
9 facilities within the state in sufficient quantity to ensure
10 reliable electric service to Iowa consumers and provide
11 economic benefits to the state. It is also the intent of the
12 general assembly to encourage rate-regulated public utilities
13 to consider altering existing electric generating facilities,
14 where reasonable, to manage carbon emission intensity in
15 order to facilitate the transition to a carbon-constrained
16 environment.

17 2. a. The general assembly's intent with regard to the
18 development of electric power generating and transmission
19 facilities, or the significant alteration of an existing
20 generating facility as provided in subsection 1, shall be
21 implemented in a manner that is cost-effective and compatible
22 with the environmental policies of the state, as expressed in
23 Title XI.

24 b. The general assembly's intent with regard to the
25 reliability of electric service to Iowa consumers, as provided
26 in subsection 1, shall be implemented by considering the
27 diversity of the types of fuel used to generate electricity,
28 the availability and reliability of fuel supplies, and the
29 impact of the volatility of fuel costs.

30 ~~3. For purposes of this section, unless the context~~
31 ~~otherwise requires, the terms "cogeneration pilot project~~
32 ~~facility", "energy sales agreement", "qualified cogeneration~~
33 ~~pilot project facility", and "utility-owned cogeneration pilot~~
34 ~~project facility" mean the same as defined in section 15.269.~~

35 4. 3. a. The board shall specify in advance, by order

1 issued after a contested case proceeding, the ratemaking
2 principles that will apply when the costs of the electric
3 power generating facility, or alternate energy production
4 facility, cogeneration pilot project facility, or energy sales
5 agreement are included in regulated electric rates whenever a
6 rate-regulated public utility does any of the following:

7 (1) Files an application pursuant to section 476A.3 to
8 construct in Iowa a baseload electric generating facility
9 with a nameplate generating capacity equal to or greater than
10 three hundred megawatts or a combined-cycle electric power
11 generating facility, or an alternative energy production
12 facility as defined in section 476.42, or to significantly
13 alter an existing generating facility. For purposes of
14 this subparagraph, a significant alteration of an existing
15 generating facility must, in order to qualify for establishment
16 of ratemaking principles, fall into one of the following
17 categories:

18 (a) Conversion of a coal fueled facility into a gas fueled
19 facility.

20 (b) Addition of carbon capture and storage facilities at a
21 coal fueled facility.

22 (c) Addition of gas fueled capability to a coal fueled
23 facility, in order to convert the facility to one that will
24 rely primarily on gas for future generation.

25 (d) Addition of a biomass fueled capability to a coal fueled
26 facility.

27 With respect to a significant alteration of an existing
28 generating facility, an original facility shall not be required
29 to be either a baseload or a combined-cycle facility. Only
30 the incremental investment undertaken by a utility under
31 subparagraph divisions (a), (b), (c), or (d) shall be eligible
32 to apply the ratemaking principles established by the order
33 issued pursuant to paragraph "e". Facilities for which advanced
34 ratemaking principles are obtained pursuant to this section
35 shall not be subject to a subsequent board review pursuant to

1 section 476.6, subsection 21 to the extent that the investment
2 has been considered by the board under this section. To the
3 extent an eligible utility has been authorized to make capital
4 investments subject to section 476.6, subsection 21, such
5 investments shall not be eligible for ratemaking principles
6 pursuant to this section.

7 (2) Leases or owns in Iowa, in whole or in part, a new
8 baseload electric power generating facility with a nameplate
9 generating capacity equal to or greater than three hundred
10 megawatts or a combined-cycle electric power generating
11 facility, or a new alternate energy production facility as
12 defined in section 476.42.

13 ~~(3) Enters into an agreement for the purchase of the~~
14 ~~electric power output of a qualified cogeneration pilot project~~
15 ~~facility or constructs a utility-owned cogeneration pilot~~
16 ~~project facility pursuant to section 15.269.~~

17 b. In determining the applicable ratemaking principles,
18 the board shall not be limited to traditional ratemaking
19 principles or traditional cost recovery mechanisms. Among the
20 principles and mechanisms the board may consider, the board
21 has the authority to approve ratemaking principles proposed by
22 a rate-regulated public utility that provide for reasonable
23 restrictions upon the ability of the public utility to seek
24 a general increase in electric rates under section 476.6 for
25 at least three years after the generating facility begins
26 providing service to Iowa customers.

27 c. In determining the applicable ratemaking principles, the
28 board shall make the following findings:

29 (1) The rate-regulated public utility has in effect a
30 board-approved energy efficiency plan as required under section
31 476.6, subsection 16.

32 (2) The rate-regulated public utility has demonstrated to
33 the board that the public utility has considered other sources
34 for long-term electric supply and that the facility, or lease,
35 ~~or cogeneration pilot project facility~~ is reasonable when

1 compared to other feasible alternative sources of supply. The
2 rate-regulated public utility may satisfy the requirements of
3 this subparagraph through a competitive bidding process, under
4 rules adopted by the board, that demonstrate the facility,
5 ~~energy sales agreement,~~ or lease is a reasonable alternative to
6 meet its electric supply needs.

7 *d.* The applicable ratemaking principles shall be determined
8 in a contested case proceeding, which proceeding may be
9 combined with the proceeding for issuance of a certificate
10 conducted pursuant to chapter 476A.

11 *e.* The order setting forth the applicable ratemaking
12 principles shall be issued prior to the commencement of
13 construction or lease of the facility, ~~or execution of an~~
14 ~~energy sales agreement related to the cogeneration pilot~~
15 ~~project facility.~~

16 *f.* Following issuance of the order, the rate-regulated
17 public utility shall have the option of proceeding according to
18 either of the following:

19 (1) Withdrawing its application for a certificate pursuant
20 to chapter 476A.

21 (2) Proceeding with the construction or lease of the
22 facility ~~or implementation of an energy sales agreement related~~
23 ~~to a cogeneration pilot project facility.~~

24 *g.* Notwithstanding any provision of this chapter to the
25 contrary, the ratemaking principles established by the order
26 issued pursuant to paragraph "e" shall be binding with regard to
27 the specific electric power generating facility ~~or cogeneration~~
28 ~~pilot project facility~~ in any subsequent rate proceeding.

29 ~~5.~~ 4. The utilities board and the consumer advocate
30 may employ additional temporary staff, or may contract
31 for professional services with persons who are not state
32 employees, as the board and the consumer advocate deem
33 necessary to perform required functions as provided in this
34 section, including but not limited to review of power purchase
35 contracts, review of emission plans and budgets, and review

1 of ratemaking principles proposed for construction or lease
2 of a new generating facility ~~or a cogeneration pilot project~~
3 ~~facility~~. Beginning July 1, 2002, there is appropriated out
4 of any funds in the state treasury not otherwise appropriated,
5 such sums as may be necessary to enable the board and the
6 consumer advocate to hire additional staff and contract for
7 services under this section. The costs of the additional staff
8 and services shall be assessed to the utilities pursuant to the
9 procedure in section 476.10 and section 475A.6.

10 ~~6. a. A qualified cogeneration pilot project facility~~
11 ~~may file a petition with the board for a determination of the~~
12 ~~avoided cost of an electric utility as provided in the federal~~
13 ~~Public Utility Regulatory Policies Act of 1978 and related~~
14 ~~federal regulations, if such a determination has not been made~~
15 ~~within the last twenty-four months or if there is reason to~~
16 ~~believe the avoided cost has changed.~~

17 ~~b. The board shall issue its determination of the electric~~
18 ~~utility's avoided cost within one hundred twenty days after the~~
19 ~~petition is filed.~~

20 ~~c. The board, for good cause shown, may extend the deadline~~
21 ~~for issuing the decision for an additional period not to exceed~~
22 ~~one hundred twenty days.~~

23 ~~d. The board shall not issue a decision under this~~
24 ~~subsection without providing notice and an opportunity for~~
25 ~~hearing.~~

26 ~~e. The utilities board and the consumer advocate may employ~~
27 ~~additional temporary staff, or may contract for professional~~
28 ~~services with persons who are not state employees, as the~~
29 ~~board and the consumer advocate deem necessary to perform~~
30 ~~required functions as provided in this subsection. There~~
31 ~~is appropriated out of any funds in the state treasury not~~
32 ~~otherwise appropriated, such sums as may be necessary to enable~~
33 ~~the board and the consumer advocate to hire additional staff~~
34 ~~and contract for services under this section. The costs of the~~
35 ~~additional staff and services shall be assessed to the electric~~

1 ~~utility pursuant to the procedure in sections 476.10 and~~
2 ~~475A.6.~~

3 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
4 immediate importance, takes effect upon enactment.